

REMARKS

Claims 1-15 and 17-21 are pending herein. Claims 17-21 have been withdrawn from consideration.

Initially, Examiner Angell is thanked for confirming allowability of SEQ ID NO: 5, in a telephone conference on December 11, 2009. Examiner Angell is further thanked for confirming allowability of SEQ ID NO: 3-4 and 6, if the arguments previously presented for SEQ ID NO: 5, were also to apply to the remaining sequences. As explained below, SEQ ID NO: 3-4 and 6 also include the same distinguishing sequences as that of SEQ ID NO: 5.

In the Final Rejection dated December 1, 2009, Examiner Angell indicated that if the claims were limited to SEQ ID NO: 5, the pending rejections would be obviated. This was in view of the Applicant's argument that SEQ ID NO: 5 encompasses sequences -173 to -123 and -114 to +105 of rL-PK and rIGFBP-1, respectively.

It is respectfully submitted that the remaining sequences SEQ ID NO: 3-4 and 6, also include the same DNA fragments as in SEQ ID NO: 5, with the difference being in the number and orientation of the rL-PK sequence. In particular, SEQ ID NO: 3 includes a single rL-PK glucose response element sequence (-173 to -123) in its native orientation upstream from the rIGFBP-1 sequence (-114 to +105). Likewise, SEQ ID NO: 4 includes two copies of the rL-PK (-123 to -173) sequence in the same (reverse from native) orientation as SEQ ID NO: 5, upstream from the

rIGFBP-1 sequence (-114 to +105). In the same manner, SEQ ID NO: 6 includes four copies of the (-173 to -123) of the rL-PK sequence, each in its native orientation, upstream from the rIGFBP-1 sequence (-114 to +105). Thus, all sequences of SEQ ID NO: 3-6, are different from that disclosed in the presentations. Accordingly, it is respectfully submitted that all claimed sequences distinguish over the prior art.

For the foregoing reasons, it respectfully submitted that Claims 1-15 are neither anticipated by nor obvious over the cited Thulé et al. abstracts, the Thulé and Liu presentations, and Vaulont et al., Goswami et al. and Cognet et al. publications. Therefore, Claims 1-15 are allowable.

As submitted previously and confirmed with Examiner Angell on December 11, 2009, since Claims 1-15 are directed to a product and the non-elected process Claims 17-21 are directed to a process of use, Claims 17-21 will be rejoined for allowance purposes.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that all pending Claims 1-15 and 17-21 are in condition for allowance. Withdrawal of all the rejections and allowance of these claims are earnestly solicited.

Appl. No.: 09/972,916

Amdt. After Final Rejection dated January 25, 2010

Reply to Office Action (Final Rejection) of December 1, 2009

It is believed that no additional fee is due for this submission. However, should that determination be incorrect, the Commissioner is hereby authorized to charge any deficiencies, or credit any overpayment, to our Deposit Account No. 01-0433, and notify the undersigned in due course.

Should the Examiner have any questions or wish to discuss further this matter, please contact the undersigned at the telephone number provided below.

Respectfully submitted,



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